

STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

**GAYLORD CONTAINER CORPORATION
WASHINGTON PARISH**

**PROCEEDINGS UNDER THE LOUISIANA
ENVIRONMENTAL QUALITY ACT
LA. R.S. 30:2001, ET SEQ.**

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**AGENCY INTEREST NUMBER
38936**

SETTLEMENT

The following Settlement is hereby agreed to between Gaylord Container Corporation (Respondent) and the Department of Environmental Quality, (Department), under authority granted by the Louisiana Environmental Quality Act, LSA- R.S. 30:2001, et seq., (the "Act").

I

Respondent owns and/or operates a paper mill known as the BOGALUSA MILL located at or near Fourth Street and Avenue U in Bogalusa, Washington Parish, Louisiana.

II

The allegations of violation that form the basis of this settlement agreement are:

Beginning on or about August 15, 2001, and concluding on or about August 24, 2001, an inspection of Gaylord Container Corporation's Bogalusa Mill was performed to determine the degree of compliance with the Act and the Air Quality Regulations, Water Quality Regulations, Hazardous Waste Regulations, Radiation Protection Regulations and Solid Waste Regulations. In response to the inspection, the Respondent submitted a letter dated March 26, 2002. File reviews were conducted on or about June 5, 2002 and August 1, 2002, at which time the Respondent's response was taken into consideration.

III

The following violations were noted during the course of the inspection and file review:

- A. The Respondent's facility is subject to the requirements of the National Emission Standards for Hazardous Air Pollutants (NESHAP), 40 CFR 63, Subpart S. According to 40 CFR 63.440(d) and 63.443(a)(1)(i), the Respondent was to have all applicable low volume, high concentration (LVHC) streams collected and routed by April 16, 2001, as required. In a letter dated May 8, 2001, the Respondent notified the Department that the exhaust gases from the chip bin had not been routed to the No. 21 Recovery Furnace (Emission Point No. 22) due to concerns regarding entrained water and turpentine vapor. In a letter dated December 6, 2001, the Respondent reported that the chip bin exhaust gases had been delivered safely to the No. 21 Recovery Furnace in early November 2001. The Respondent failed to have all LVHC streams collected and routed to the No. 21 Recovery Boiler for combustion by the compliance date of April 16, 2001, in violation of 40 CFR 63.440(d) and 63.443(a)(1)(i) which language has been adopted as a Louisiana regulation in LAC 33:III.5122, Part 70 and State Only Specific Condition No. 1 of Air Permit No. 3060-00001-V1, LAC 33:III.501.C.4, and Sections 2057(A)(1) and 2057(A)(2) of the Act.
- B. A significant amount of particulate matter was observed being emitted from the unpaved roadways throughout the facility caused by moving vehicles. The Respondent failed to reasonably control fugitive dust from unpaved roadways throughout the facility and failed to include the dust emissions in the air permit application, in violation of LAC 33:III.1305, LAC 33:III.517.D.3 and Sections 2057(A)(1) and 2057(A)(2) of the Act.
- C. Ash that is generated from the tree bark burned in the boilers is transported by trucks to the back of the facility where it is stored in piles prior to being removed from the site. The roads where the ash trucks travel are blackened with the ash that has fallen out. The handling of this ash is a source of particulate matter that has not been identified in the facility's air permit application or air permit. The Respondent failed to include the fugitive emissions of particulate matter associated with the ash in the air permit application, in violation of LAC 33:III.517.D.3 and Section 2057(A)(2) of the Act.
- D. Spills of fuel oil around the loading area for the No. 6 fuel oil tank were evident. The Respondent failed to clean up spills of volatile organic compounds (VOCs) employing procedures that reduce or

eliminate the emission of VOCs, in violation of LAC 33:III.2113.A.1 and Section 2057(A)(2) of the Act.

- E. The white liquor storage tank, two (2) white liquor clarifier tanks, weak wash tank, weak black liquor storage tank and de-aerator tank were not identified in either the air permit or the air permit application. The Respondent failed to identify and quantify the emissions from six (6) tanks in the air permit application, in violation of LAC 33:III.517.D.3 and Section 2057(A)(2) of the Act.
- F. During the file review it was noted that the Respondent reported in the Quarterly Permit Deviation and Exceedance Report dated June 25, 2001, that on January 27, 2001, titration of the black liquor exiting the BLOX system once per shift as per Table 3 for the Recovery Furnace No. 20 (Emission Point No. 20) of the Air Permit was to have commenced. According to the Respondent titration did not begin for 63 days following the January 27, 2001, date. The Respondent noted that equipment purchase and training delays were the cause for failing to initiate titration on that date. In addition, the Respondent reported in the Quarterly Permit Deviation and Exceedance Report dated September 21, 2001, that from April 1, 2001 until April 10, 2001, black liquor titration was only performed for day shifts due to training scheduling. The Respondent failed to perform titration of the black liquor exiting the BLOX system once per shift, in violation of Part 70 Specific Condition No. 1 and the State Only Specific Condition of Air Permit No. 3060-00001-V1, LAC 33:III.501.C.4 and Section 2057(A)(2) of the Act.
- G. The Respondent failed to prepare and submit a copy of the 2000 Annual Hazardous Waste Report by March 1, 2001, in violation of LAC 33:V.1111.B.1; however, due to a change in regulations this is no longer required.
- H. The Respondent failed to determine if the solid waste (dirt contaminated with spilled oil) was a hazardous waste, in violation of LAC 33:V.1103.
- I. The Respondent failed to maintain an annual inventory of all sealed sources, specifically, the AM-241 source for the year 2000 and 2001, in violation of LAC 33:XV.104.B.
- J. The Respondent failed to maintain records showing the receipt of all sources of radiation, specifically, the Americium source, in violation

of LAC 33:XV.104.A.

- K. The Respondent failed to provide a leak test before re-installation of a sealed source, specifically the Am-241 source, in violation of LAC 33:XV.426.A.1.
- L. The Respondent failed to perform the installation survey necessary to evaluate the radiation levels for the Am-241 source, in violation of LAC 33:XV.430.A.2.a.
- M. The Respondent failed to post form DRC-3, "Notice to Employees", in violation of LAC 33:XV.1011.C.
- N. The Respondent failed to keep the primary solids contained on the storage slab, in violation of the Operations and Maintenance Protocol of the Standard Permit P-0072-A and LAC 33:VII.901.
- O. The TSS drying oven temperature records show a reading of 107° C on February 26, 2001, and from June 25-June 27, 2001. EPA method 106.2 states that the drying oven should be kept between 103°-105°C. The failure to utilize the proper sampling methods is in violation of LPDES permit LA0007901 (Part II.D; Part III.A.2, and III.C.5), La. R.S. 30:2076 (A)(3), LAC 33:IX.501.A, LAC 33:IX.2355.A, LAC 33:IX.2355.J.4, and LAC 33:IX.2767.A.5.
- P. The Respondent had failed to implement an adequate Spill Prevention and Control (SPC) plan. Specifically, the SPC plan was not site-specific with regard to the identity and location of applicable substances and was not current with the facility's operations. The failure to implement an adequate SPC plan is in violation of La. R.S. 30:2076 (A) (3), LAC 33:IX.501.A, and LAC 33:IX.905.A.
- Q. The Respondent failed to prepare and implement an adequate Storm Water Pollution Prevention Plan (SWP3). Specifically, SWP3 team members and positions were not identified (Part 4, Section 2.1); preventative maintenance and visual inspection logs were not being kept (Part 4, Section 2.7.2.1.3); annual site inspection for 2000 was not documented (Part 4, Section 9.1); and records of employee awareness training were not being kept (Part 4, Section 2.7.2.1.6). The failure to prepare and implement an adequate SWP3 is in violation of LPDES permit LAR050M243 (Part 4, Sections listed above), La. R.S. 30:2076(A)(3), LAC 33:IX.501.A, and LAC 33:IX.2355.A.

R. A file review conducted by the Department revealed the following effluent violations:

MONITORING PERIOD	PARAMETER	PERMIT LIMITS	SAMPLE VALUE
January 2001	BOD ₅ (avg loading)	17,151 lbs/day	17,532 lbs/day
	BOD ₅ (max loading)	34,600 lbs/day	35,029 lbs/day
	Oil and Grease (max loading)	3,578 lbs/day	7,455 lbs/day
	pH (max)	9.0 standard units	9.1 standard units
December 2000	BOD ₅ (avg loading)	17,151 lbs/day	18,709 lbs/day
January 2000	Di-N-Butyl Phthalate (avg loading)	0.16 lbs/day	2.37 lbs/day
	Di-N-Butyl Phthalate (max loading)	0.33 lbs/day	2.37 lbs/day
	2,4-Dimethylphenol (avg loading)	0.11 lbs/day	2.71 lbs/day
	2,4-Dimethylphenol (max loading)	0.21 lbs/day	2.71 lbs/day

Each effluent excursion is in violation of LPDES permit LA0007901 (Part I, and Part III, Section A.2), La. R.S. 30:2076 (A)(1)(b), La. R.S. 30:2076 (A)(3), LAC 33:IX.501.A, LAC 33:IX.501.D, LAC 33:IX.2355.A, and LAC 33:IX.2767.A.5.

IV

As noted during the August 2001 inspection, the LPDES permit LA0007901 renewal application contained several deficiencies with respect to the functioning and layout of the facility. The Respondent has subsequently addressed these deficiencies by amending the application.

V

As noted during August 2001 inspection, the wastewater aeration stabilization basin (ASB) had experienced a build-up of solids that decreased the effective depth to six feet.

VI

As noted during the August 2001 inspection, the Respondent's facility had recently experienced a discharge from a location not specified in LPDES permit LA0007907. Specifically, untreated storm water and process area wastewater was discharged for approximately four hours from the East reservoir to Bogue Lusa Creek on June 11, 2001. This discharge was due to a heavy rain event associated with Tropical Storm Allison, which caused the overflow of the system. Sampling in Bogue Lusa Creek both upstream and downstream of the discharge revealed no adverse impact as a result of the discharge.

VII

In lieu of the issuance of a consolidated compliance order and notice of potential penalty and the Respondent's request for an administrative hearing, the Respondent and the Department have agreed to the following terms.

VIII

Respondent denies it committed any violations or that it is liable for any fines, forfeitures and/or penalties.

IX

Nonetheless, the Respondent, without making any admission of liability under state or federal statute or regulation, agrees to pay, and the Department agrees to accept, a single payment in the amount of SEVENTY-FIVE THOUSAND AND NO/100 DOLLARS (\$75,000.00), of which ONE THOUSAND EIGHT HUNDRED FIFTY-SEVEN AND NO/100 DOLLARS (\$1,857.00) represent DEQ's enforcement costs, in settlement of the claims set forth in this agreement. This payment shall be considered a civil penalty for tax purposes.

X

Respondent further agrees that the Department may consider the inspection report(s) and this Settlement for the purpose of determining compliance history in connection with any future enforcement or permitting action by the Department against Respondent, and in any such action the Respondent shall be estopped from objecting to the above-referenced documents being considered as proving the violations alleged herein for the sole purpose of determining Respondent's compliance history.

XI

This agreement shall be considered a final order of the secretary for all purposes, including, but not limited to, enforcement under La. R.S. 30:2025(G)(2), and Respondent hereby waives any right to administrative or judicial review of the terms of this agreement.

XII

This settlement is being made in the interest of settling the state's claims and avoiding for both parties the expense and effort involved in litigation or an adjudicatory hearing. In agreeing to the compromise and settlement, the Department considered the factors for issuing civil penalties set forth in LSA- R. S. 30:2025(E) of the Act.

XIII

The Respondent has caused a public notice advertisement to be placed in the official journal of the parish governing authority in Washington Parish. The advertisement, in form, wording, and size approved by the Department, announced the availability of this settlement for public view and comment and the opportunity for a public hearing. Respondent has submitted a proof-of-publication affidavit to the Department and, as of the date this Settlement is executed on behalf of the

Department, more than forty-five (45) days have elapsed since publication of the notice.

XIV

Payment is to be made within ten (10) days from notice of the Secretary's signature. If payment is not received within that time, this Agreement is voidable at the option of the Department.

Payment is to be made payable to the Department of Environmental Quality and mailed to the attention of Darryl Serio, Office of Management and Finance, Department of Environmental Quality, Post Office Box 82231, Baton Rouge, Louisiana, 70884-2231.

XV

In consideration of the above, any claims for penalties are hereby compromised and settled in accordance with the terms of this Settlement.

XVI

Each undersigned representative of the parties certifies that he or she is fully authorized to execute this Settlement Agreement on behalf of his/her respective party, and to legally bind such party to its terms and conditions.

WITNESSES:

RESPONDENT

BY: _____
(Signature)

(Printed)

TITLE: _____

THUS DONE AND SIGNED in duplicate original before me this _____ day
of _____, 20____, in _____, Louisiana.

NOTARY PUBLIC

WITNESSES:

STATE OF LOUISIANA
Hall Bohlinger, Secretary
Department of Environmental Quality

BY: _____
R. Bruce Hammatt, Assistant Secretary
Office of Environmental Compliance

THUS DONE AND SIGNED in duplicate original before me this _____ day
of _____, 20____, in Baton Rouge, Louisiana.

NOTARY PUBLIC

Approved: R. Bruce Hammatt
R. Bruce Hammatt, Assistant Secretary

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This Settlement Agreement has been reviewed, and is concurred in, by the Attorney General, under the provisions of La. R.S. 30:2050.7.

**RICHARD P. IEYOUB
ATTORNEY GENERAL**

DATED: _____

BY: _____
ASSISTANT ATTORNEY GENERAL